

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ELWOOD H. JONES

Petitioner,

Case No. 01-CV-564

v.

JUDGE ROSE

MARGARET A. BAGLEY, Warden

MAGISTRATE JUDGE MERZ

Respondent.

RESPONDENT'S MOTION TO EXPAND THE RECORD

At the telephone status conference on July 10, 2007, Respondent's counsel informed the Court that, on July 6, 2007, new evidence came to light in the case; namely: 1) the ring from which the diamonds for Rhoda Nathan's pendant had been taken; and 2) a Tilden Jewelers envelope, on which were written instructions for the making of the pendant.¹ Per the Court's instructions, Respondent now moves, pursuant to Habeas Rule 7, to expand the record with the following materials:

1. affidavit of Valentine Nathan detailing his part in the chain of custody for the ring and envelope
2. six (6) digital photographs Valentine Nathan took of the ring
3. two (2) digital photographs Valentine Nathan took of the envelope

¹ Respondent's counsel also notified the Court that, on July 9, 2007, he had informed defense counsel of the existence of the evidence as well as forwarded to them copies of digital photos of the evidence.

Respondent seeks to expand the record to include the new evidence only insofar as it has bearing upon Jones's guilt or innocence, and thus by some extension his present claims in federal habeas corpus. Ultimately, however, as Respondent asserted in her Reply to Jones's Traverse and Response to Jones's Motion for Evidentiary Hearing, she maintains that there is sufficient evidence in the existing record to prove Jones's present claims on this issue meritless.

Respectfully submitted,

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s/ Matthew C. Hellman
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion to Expand the Record* was delivered to counsel for petitioner this 20th day of July 2007, via the court's electronic filing system.

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